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BEFORE THE BOARD OF ZONING ADJUSTMENT, D. C.

Application No. 12218, of Oliver T. Carr, Jr., and George H. Beuchert, Jr., Trustees, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Section 4506.81 (3308), roof structure in the CR District, at 2520 M Street, N.W., Lots 809, 810 and 811, Square 14.

HEARING DATE: October 20, 1976

DECISION DATE: October 20, 1976 (Executive Session)

FINDINGS OF FACT:

1. The subject property is located in a CR Zoning District.
2. The application requests approval of roof structure pursuant to Section 4506.81 of the CR Zoning Regulations which incorporates in its entirety Section 3308 of the Zoning Regulations, for the Commercial portion of a mixed use development as provided for in the CR District.
3. The calculation of FAR for the commercial portion of the development as a matter of right is permitted to be taken from lots other than the lot upon which the building is to be constructed in accordance with the covenant as required by the CR Regulations. Such covenant was submitted for the record.
4. Because of the separation of the commercial building from the residential building and in accordance with the CR Zoning Regulations providing for mixed uses, Lot 809 has been sub-divided into two record Lots, 68 and 69, as shown on the portion of the sub-division plat submitted with the statement of applicants. Such sub-division permits separate mortgage packages for the office and residential development.
5. The penthouse enclosure contains a combination of stairway and elevator penthouses and mechanical equipment which will be placed in one enclosure. The penthouse will be under .12 FAR and is permitted as a matter of right. The roof structure penthouse will also enclose the engineer's toilet and toilets for women and men accessible to the roof terrace area.

6. The penthouse enclosure to be constructed of red brick and aluminum, the same as the facades of the main building. The shape of the roof structure follows the lines of the commercial building and is designed to be adjacent to a portion of the roofstructure for the future development of a building for residential purposes.

7. The penthouse for the commercial building is setback from the northern property line a distance of 36 feet, from 26th Street a distance of 59 feet and from the property line on the east a distance of approximately 42 feet. However, the penthouse with regard to the interior lot line abuts. Accordingly, approval of the location of the penthouse is required pursuant to Section 3308.21.

8. The proposed building is part of the overall development of Lot 809 and is in accordance with the mixed-use requirements for the CR District in that the proposed building will not exceed the FAR limitation for such use in the CR District. The owners proposed to construct at a later date the residential portion of the development also on the lot designated 809 and record lot 69.

9. Were it not for the fact that record lots have been provided on Assessment and Taxation Lot 809 to accommodate separate buildings so as to permit a single building on a single record Lot, no relief would be required from the Board with regard to the location of the penthouse. Since the penthouse only abuts the interior lot line at the interior of the site and more than the one-for-one setback is provided from the exterior perimeter of the project, the proposed penthouse meets the intent and purposes of Section 3308. Moreover, the service core of the building is located approximately equal distances from the perimeter of the building away from the north, east and west property lines. The mechanical equipment has been provided on the interior of the other elements of the penthouse so as to maximize setbacks from these other property lines.

10. The Commission of Fine Arts has approved the proposed building at 2520 M Street, N. W.

11. There was opposition at the public hearing to the granting of this application. However, the opposition was essentially directed toward the construction of the building itself under the C-R Zoning Regulations, which is permitted as a matter of right, and not to the location or design of the roof structure. The only issue before the Board is the question of compliance of the roof structure with the provisions of Section 3308. Some of the persons appearing in opposition were interested by virtue of their ownership of properties on the eastern side of the proposed building. We note that the setback from the eastern property line more than meets the one-for-one setback required by the Regulations and thus, with regard to that property line, no relief is requested from the Board.

12. The opposition also stated that they were not certain that the building to be constructed would be in compliance with the plans approved by the Board. The Board takes note that the Zoning Administrator is required to assure compliance of the plans as they are properly before the Board within the Board's jurisdiction with regard to roof structures.

CONCLUSIONS OF LAW:

The Board is of the opinion that the applicants through the evidence and testimony of record, have established that the provisions of Section 3308 as incorporated by Section 4506.81 of the Zoning Regulations have been met. The penthouse will contain the combination of stairway, elevator, penthouses and mechanical equipment specified in Section 3308.2 and will have FAR of less than .12, which bulk is permitted as a matter of right. The service equipment will be placed in one enclosure with the type of material specified in paragraphs 3308.11 and 3308.12 and will harmonize with the main structure in architectural character, material and color.

With regard to the location of the penthouse on the interior lot line, the Board finds that a setback from this interior lot line would be impracticable because of operating difficulties, and other conditions relating to the building and surrounding area which tend to make full compliance unduly restrictive and unreasonable. These conditions include the fact that the C-R Zoning Regulations

require a mixed-use development with a limitation of FAR on the commercial. In order to construct buildings on the site with vertical separation of uses, it is essential to have separate record lots for each building. The building is designed to match a future building for residential purposes thus giving an overall cohesiveness of design not only for the building but for the roof structures as well. The Board is cognizant of the need, as stated by applicants, to have separate lots for financing purposes. Were it not for the provision of separate record lots on Assessment and Taxation Lot 809, no relief would be necessary from this Board in any way with regard to location of the penthouse since the penthouse is set back the required one-for-one setback from all streets and surrounding properties which are not part of the project.

Since the penthouse as proposed will permit a cohesive design with the adjacent proposed residential building and is set back from other adjacent buildings and properties, the light and air of such adjacent buildings and properties will not be adversely affected. The Board concludes that the proposed penthouse is in furtherance of the intent and purpose of Section 3308. Accordingly, it is hereby ORDERED that the application for roof structure approval is GRANTED.

VOTE: 3-1 (Dr. Walter B. Lewis, William F. McIntosh and William S. Harps to GRANT, Lilla Burt Cummings, Esq., to DENY, Leonard L. McCants Esq., not voting, not having heard the case at Public Hearing).

BY ORDER OF THE D. C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY 
ARTHUR B. HATTON
Executive Secretary

THAT THE ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS ONLY UNLESS APPLICATION FOR A BUILDING AND/OR OCCUPANCY PERMIT IS FILED WITH THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT WITHIN A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER.

FINAL DATE OF ORDER: 12/20/76